IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

SUMMARY SUIT NO.190 OF 2002

S.C. Mehta. ...Plaintiff.
Versus
Expotrade & Anr. ...Defendants.

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Ms.Kavita S. Lalvani for the Plaintiff.
None for the Defendants.

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CORAM : DR. D.Y. CHANDRACHUD, J.

March 26, 2007.

P.C.:

Conditional leave was granted by an order dated 19th January 2005 to defend the suit which has been instituted under the provisions of Order 37 Rule 1 of the Code of Civil Procedure, 1908. The Defendants were permitted to defend the suit conditional on the deposit of a sum of Rs.75,000/- within a period of 12 weeks from the date of the order. The suit has been instituted in order to recover the balance dues in respect of a Bill of Exchange in the amount of Rs.1 lakh. An amount of Rs.25,000/- was received by the Plaintiff. Consequently, the suit has been instituted for the recovery of the balance.

A certificate of non-deposit dated 7th June 2006 has been

filed by the Master and Assistant Prothonotary. The Plaintiff has filed a compilation of the original documents including the Bill of Exchange on which the suit has been instituted. Since the Defendants have failed to comply with the condition subject to which leave to defend the suit was granted, the Plaintiff would be entitled to a decree in terms of the provisions of Order 37 of the Code of Civil Procedure, 1908. The claim in the suit is within the purview of Order 37 and has been duly established.

In the circumstances, the suit shall stand decreed in terms of prayer clause with the modification that the Plaintiff shall be entitled to interest at the rate of 9% per annum from the date of the suit until payment or realisation.

Refund of Court fee, if any, as per rules.

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